

**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**

**BOARD STAFF'S REVIEW OF THE PETITION**

By: Mr. Andras Uhlyarik, President, California Pulse, Inc.

Petition File No.: 525

Submitted By: Martin Tamayo, CSP, ARM  
Title: Associate Engineer - Standards  
Date: January 31, 2012

## **INTRODUCTION**

On September 21, 2011, the Occupational Safety and Health Standards Board (Board) received a petition dated September 19, 2011 from Mr. Andras Uhlyarik (Petitioner), President of California Pulse, Inc., in Apple Valley, California.

The Petitioner requests that the Board update Title 8, California Code of Regulations, to the current edition (2011) of the National Fire Protection Association (NFPA) 33, *Standard for Spray Application Using Flammable or Combustible Materials*.

Labor Code Section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals and to render its decision no later than six months following receipt of such a proposal. In accordance with Board policy, the purpose of this evaluation is to provide the Board with relevant information upon which to base a reasonable decision.

## **REASON FOR THE PETITION**

The Petitioner points out two reasons why he feels the current version of NFPA 33-2011 should be incorporated into the Title 8 standards. The Petitioner states the following:

- There have been many improvements to NFPA 33 over the years, and these improvements should be reflected in the Title 8 standard.
- Companies in the spray finishing industry reference the current version of NFPA 33 and have their products tested by nationally recognized testing laboratories to the current NFPA 33 standard. It would facilitate doing business in California if the Title 8 standards relating to spray finishing applications would be the same as the current NFPA 33 standards.

NFPA 33 applies to the spray application process of flammable or combustible materials either continuously or intermittently. In subsequent e-mail correspondence and telephonic discussion with the Petitioner, he stated that the thrust of his petition is to have Title 8 spray booth standards amended to permit the recirculation of spray booth air which is addressed by the NFPA 33-2011 standard.

## **HISTORY**

A review of the Board's petition log indicates that the Board has not granted or denied any previous petition request to update Title 8 Standards with the latest edition of NFPA 33 and/or regarding the issue of recirculation of spray booth air. However, on October 18, 2007 the Board granted a permanent variance to Fleetwood Motor Homes of California, Incorporated from GISO Section 5153(c)(1). The variance concerned the recirculation of air in Fleetwood's spray booths at its Riverside, California facilities. Previous to Fleetwood, the Board granted two other variances concerning the recirculation of spray booth air. In 1985 the Board granted HessCo Industries Inc. a

variance from GISO Section 5153(c) (1), and in 1997 the Board granted Gulfstream Aerospace a permanent variance from Sections 5153(c) (1) and 5141.

### **NATIONAL CONSENSUS STANDARDS**

NFPA 33-2011 is the latest edition of this standard. The next update will take place in 2014. NFPA 33-2011, subchapter 7.5.1 allows recirculation of exhaust air only if a set of strict conditions are met. The first condition states, "Recirculation shall be allowed only for unmanned spray operations and for cascading to subsequent unmanned spray operations." The following subchapter (7.5.2) states, "The provisions of 7.5.1 shall not disallow recirculation of air to occupied spaces." ANSI/AIHA Z9.7, *Recirculation of Air from Industrial Process Exhaust Systems*, states requirements for toxicity and permissible exposure limits that would apply in order to allow the recirculation of air to occupied spaces.

### **FEDERAL OSHA STANDARDS**

Federal OSHA is in the process of revising its standards for general industry that refer to national consensus standards including the NFPA 33 standard. The agency is undertaking a long-term project to update its standards to reflect the latest version of consensus and industry standards. Current federal OSHA standards reference NFPA 33-1969. Existing 29 CFR 1910.107(d) (9) states, "Air exhausted from spray operations shall not be recirculated."

### **DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (Division) EVALUATION**

The Division recommended that the petition in its present form be denied, in that the possible changes to Title 8 are numerous and far-reaching, and these changes could have unintended consequences that do not enhance worker health or safety. The Division leaves the door open to considering a narrower petition (i.e. one limited to the recirculation of air in spray booths).

### **STAFF ANALYSIS**

Board staff agrees with the Division that the process of a comprehensive overhaul of Title 8 spray finishing standards as proposed by the Petitioner would be an enormous undertaking that would require a significant committal of staff resources and the evaluation of the more than two dozen regulations contained within three articles. Changes of this magnitude could have unintended consequences detrimental to health and safety. The Board staff also finds that the Petitioner's request does not support the necessity for a comprehensive overhaul. In terms of providing satisfactory employee safety, the Board staff has not discovered evidence that the existing standards are ineffective, impractical or unclear. Staff believes that in the absence of evidence to the contrary, existing Title 8 spray coating standards are protective, enforceable, practical and consistent with local jurisdiction fire and life safety codes.

### **SUMMARY AND RECOMMENDATION**

Based on the foregoing discussion, Board staff believes that the Petitioner's broad-based request to update all Title 8 spray coating standards to NFPA 33-2011 should be denied.

If the Petitioner submits a narrower petition specifically addressing the recirculation of air in spray booths, that petition will be addressed on its merits at that time. It is noted that, unless the Federal 29CFR 1910.107(d)(9) is amended to permit spray booth air circulation, it might not be possible for the Standards Board to adopt the sort of narrower proposal that the petitioner might have in mind.